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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,887	03/08/2001	Seiji Sano	201066US2	6821

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EXAMINER

RUTHKOSKY, MARK

ART UNIT	PAPER NUMBER
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1745

DATE MAILED: 09/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/800,887

Applicant(s)

SANO ET AL.

Examiner

Mark Ruthkosky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-24 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

RESTRICTION

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-7 and 22, drawn to a polymer electrolyte fuel cell system with a water quantity detection means, a saturated water vapor content detection means, a water quantity control detection means and an operation control means, classified in class 429, subclass 22. Claim 22 is drawn to a polymer electrolyte fuel cell system with a fuel cell, a control system with detectors to detect a quantity of water and a saturated water vapor content, a calculator portion positioned and configured to calculate a water quantity control ratio and a control portion.
- II. Claims 8-12, and 23, drawn to a polymer electrolyte fuel cell system with a relative humidity detection means, an operation control means, classified in class 429, subclass 22. Claim 23 is drawn to a polymer electrolyte fuel cell system with a fuel cell, a control system with detectors to detect a relative humidity of an exhaust gas, and a control portion.
- III. Claims 13-15, and 24, drawn to a polymer electrolyte fuel cell system with a water quantity detection means, a water vapor detection means, and a abnormality judgment means, classified in class 429, subclass 12. Claim 24 is drawn to drawn to a polymer electrolyte fuel cell system with a fuel cell, an abnormality judgment system with a detector to detect a quantity of water produced by the fuel cell, a second detector to detect a water vapor content in an exhaust gas and a judging portion to judge the abnormality of he fuel cell system.

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- IV. Claims 16-18, drawn to a method of operating a polymer electrolyte fuel cell system by controlling an operating state of the fuel cell by comparing a water quantity produced by the fuel cell to the saturated water vapor content of the exhaust of the fuel cell, classified in class 429, subclass 13.
- V. Claims 19-21, drawn to a method of operating a polymer electrolyte fuel cell system by controlling an operating state of the fuel cell such that a water quantity control ratio equivalent to a relative humidity of an exhaust gas produced by the fuel cell is in a predetermined range, classified in class 429, subclass 13.

The inventions are distinct, each from the other because of the following reasons:

Inventions I, II and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation as different values are detected and have different effects such as controlling operations to produce a predetermined amount of water in the fuel cell or to control the relative humidity or to judge a system abnormality.

Inventions I and IV are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the product can be used to react gasses to produce electricity or heat.

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Inventions II and V are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the product can be used to react gasses to produce electricity or heat.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, III or V, restriction for examination purposes as indicated is proper. Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Group III or IV, restriction for examination purposes as indicated is proper. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143). Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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Examiner Correspondence

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1193. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Ruthkosky whose telephone number is 703-305-0587. The examiner can normally be reached on FLEX schedule (generally, Monday-Thursday from 9:00-6:00.) If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached at 703-308-2383.

The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Mark Ruthkosky
Primary Patent Examiner
Art Unit 1745

Mark Ruthkosky
9/24/03